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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,346	01/02/2002	Michael L. Obradovich	9800.1028	8390

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EXAMINER

GIBSON, ERIC M

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 06/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

HN

Office Action Summary

Application No.

10/038,346

Applicant(s)

OBRADOVICH, MICHAEL L.

Examiner

Eric M Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 129-137, 139-146 and 148-154 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 129-137, 139-146 and 148-154 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 129-137, 139-146 and 148-154 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. (US005859628A) in view of Suman et al. (US006028537A).

Ross et al. discloses an apparatus and method for a personal onboard information system, wherein it is determined whether a vehicle needs a service, e.g., maintenance (column 10), positions or locations of the vehicle and at least one service providers are obtained using GPS (columns 8 and 10), and a service provider closest to the vehicle position is selected (column 10). According to Ross, there is provided a database or memory for storing service provider information, e.g., position (column 8). Furthermore, as explained in column 9, information is communicated via audio media or visual (display). A distance between the vehicle and the selected service provider is determined based on the acquired GPS positions of the vehicle and the service provider, and wherein the service provider is selected based on the determined distance (column 10). More particularly, Ross discloses that the system provides the user with information of the nearest rest area in response to the vehicle's position and direction. Route planning from the vehicle position to the service provider is also provided. As explained in column 10, should vehicle maintenance be required, the location and distance to the nearest repair facility is determined. It is inherent in the art that in order

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to determine the distance between the vehicle and the service provider and to determine the closest or nearest service provider to the vehicle, the position of the vehicle has to be compared to the position of the service provider. However, Ross does not particularly disclose at least first and second service providers, wherein the closer service provider is selected when the current vehicle position is within a predetermined distance. Suman et al., on the other hand, discloses a vehicle communication and remote control system providing information to a user. According to Suman, as shown in figures 41 and 43 and described in columns 33-36, discloses obtaining data concerning at least two service providers, determining the closer service provider to the current position of the vehicle and selecting the closer service provider when the distance of the vehicle to the service provider is within a predetermined distance. In addition, as described in columns 2-3, Suman also provides route guidance. Thus, it would have been obvious to one of ordinary skill in the art, at the time of invention, to be motivated to modify the apparatus and method for a personal onboard information system of Ross by incorporating the features from the vehicle communication of Suman because such modification will ensure safe and accurate selection of the appropriate service provider.

2. Claims 129-137, 139-146 and 148-154 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker et al. (US005790973A) in view of Suman et al. (US006028537A).

Blaker et al. discloses a last exit warning system for a vehicle, wherein the current position of the vehicle and a plurality of service area locations are obtained

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using GPS. According to Blaker, the locations of the service areas can be stored in a memory or database. When it is determined that the vehicle needs service, e.g., refueling, a processor compares the position of the vehicle with the service area locations to determine which one is closer to the vehicle position. See columns 3 and 4. Furthermore, a distance from the vehicle to the service area locations is determined. Based on the determined distance, the closest service area is selected. As described in columns 4 and 5, the information is communicated via an audible or visual message and the position of the vehicle is compared to the positions of the service areas. However, Blaker does not particularly disclose at least first and second service providers, wherein the closer service provider is selected when the current vehicle position is within a predetermined distance. Suman et al., on the other hand, discloses a vehicle communication and remote control system providing information to a user. According to Suman, as shown in figures 41 and 43 and described in columns 33-36, discloses obtaining data concerning at least two service providers, determining the closer service provider to the current position of the vehicle and selecting the closer service provider when the distance of the vehicle to the service provider is within a predetermined distance. In addition, as described in columns 2-3, Suman also provides route guidance. Thus, it would have been obvious to one of ordinary skill in the art, at the time of invention, to be motivated to modify the apparatus and method for a last warning exit system of Blaker by incorporating the features from the vehicle communication of Suman because such modification will ensure safe and accurate

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selection of the appropriate service provider and provide a warning to the driver when the closer service provider is near.

Response to Arguments

3. Applicant's arguments filed 4/10/2003 have been fully considered but they are not persuasive.

a. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

b. The applicant does not specifically point out which limitations the combination of references fail to show with respect to the language used in the claims. The applicant rests patentability on the contention that the Examiner agreed the prior art did not teach a certain limitation and therefore the newly cited references, which do teach the limitations, cannot teach the limitations because they are duplicative of the original reference. Whether or not the teaching of the second reference is found in the first reference, which may have been overlooked by the Examiner, is irrelevant to whether or not the combination of the references teach the claimed invention. To this end, the applicant has not included any assertion of a lack of teaching in the combination in order to reconsider the rejection of the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

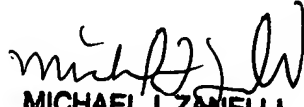
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


MICHAEL J. ZANELLI
PRIMARY EXAMINER

EMG
June 11, 2003